IN THE HIGH COURT OF BOMBAY AT GOA, PANAJI-GOA

APPEAL FROM ORDER NO. 24 OF 2004

1. Mrs. Maria Menezes,
   wife of late Peter Menezes,
   age 70 years, business,

2. Mrs. Precila Menezes,
   wife of Mr. Mark Anthony Menezes,
   major of age, business,
   and her husband,

3. Mr. Mark Anthony Menezes,
   son of late Peter Menezes,
   major of age, Advocate,
   all Indian Nationals and
   all residents of Flat No. 1, 2nd Floor,
   Pelican Building, Opp. Lohia Maidan,
   Margao-Goa.

4. M/s. La Marina Restaurant and Bakery,
   having its office at D.T. 8,
   3rd Floor, D building,
   Panchratna Commercial Complex,
   Martires Dias Road,
   Margao-Goa. .... Appellants

Versus

1. Shri Eric Fernandes,
   Son of Lourenco Fernandes,
   major of age, business,
   C/o. M/s. La Marina Restaurant
   and Bakery, Shop No. 5,
   Pelican Building, Ground Floor,
   Opp. Lohia Maidan,
   Margao-Goa.
   Presently residing near Arya Hotel,

NH 17, Koteshwar, Kundapura Taluka,
Udipi District, Karnataka.

2. Mr. Salim Abdul Rehaman,
Son of Abdul Rehaman,
major of age,
C/o. M/s. La Marina Restaurant
and Bakery, Shop No.5,
Pelican Building, Ground Floor,
Opp. Lohia Maidan,
Margao-Goa. .... Respondents

Shri J. Godinho, Advocate for the Appellants.

Shri Judas Chagas Silva, Advocate for Respondent No.1.
Shri Sudesh Usgaonkar, Advocate for Respondent No.2.

CORAM : **P.V. KAKADE, J.**

DATE : **24th NOVEMBER, 2006**

ORAL JUDGMENT :

The appellants/plaintiffs have preferred this appeal against the judgment and order passed by the Additional Civil Judge, Senior Division, Margao, whereby the application for temporary injunction came to be dismissed.

2. After hearing both the parties for sometime and looking in the nature and tenure of the appeal, it is seen that the suit is of the year 2001, wherein the application for temporary injunction was filed, which

ultimately came to be rejected. The suit itself pertains to the possession of the suit property, wherein the restaurant is run and possession of the premises alongwith the articles therein, and other certain consequential reliefs. However, it is clear that the adjudication of the interim matter would not settle the dispute, nor the interest of the parties would be served by deciding the interim matter in this appeal. Therefore, it is directed that the trial Court shall take up the matter for adjudication on merits, after giving opportunity to both the sides to lead their evidence, within one year from the date of the receipt of the writ of this Court. With these directions, the appeal stands disposed of with no order as to costs.

P.V. KAKADE, J.

NH